

**SUPPORTING BRIEF.**

TO THE SAID HONORABLE COURT:

No opinion was rendered by the trial court. The opinion of the Circuit Court of Appeals is not reported, but is listed in the records of the Eighth Circuit as *L. K. Person v. United States of America*.

**Jurisdiction.**

The judgment and decree to be reviewed was rendered and entered May 16, 1940 (R. 25-30). Petitioner filed his Petition for Rehearing on May 31, 1940 (R. 31), which was within the time allowed by Rule 18 of said Court. The Petition for Rehearing was denied without further opinion on June 11, 1940 (R. 47). Jurisdiction of this Court is invoked under Section 240(a) of the Judicial Code, as amended by the Act of February 13, 1925 (U. S. C. S. 347(b)).

**Facts.**

The pertinent and controlling facts on this application are stated in the petition at pages 2 to 4, to which reference is made. Applicability of those facts to particular points hereinafter presented will be made in connection therewith.

**Specification of Errors.**

“Questions Presented,” 1 to 4, both inclusive, pages

4 to 6 of the petition, are here adopted, and together with "Reasons Why Writ Should Be Granted," 6 to 10, both inclusive, and together presented as Assigned Errors.

Each of the above errors were assigned in Petition for Rehearing before the Circuit Court of Appeals (R. 31 - 45).

### Points 1 and 2.

These points are closely interwoven and are best argued together. They involve limitations and laches as pertaining to the government when in business. The argument and citations applicable here are largely stated in the Petition.

### Authorities.

*United States v. Bank of Metropolis*, 15 Peters 377;

*Cotton v. United States*, 52 U. S. 377;

*Cooke, et al., v. United States*, 91 U. S. 496;

*Osborn v. U. S. Bank*, 9 Wheaton 737;

*Sloan Shipyards Corporation et al., v. U. S. Shipping Board Emergency Fleet Corp. and United States*, 258 U. S. 549;

*Denver & R. G. R. Co. v. United States*, 241 Fed. 614;

*Lorman v. Clarke*, 2 McLean 568, Fed. Cas. No. 8516;

*Wheaton v. Peters*, 33 U. S. 591.

#### **Argument.**

In the past few years the United States has entered into many fields of business. Among the first of these enterprises were the Federal Land Banks. Just preceding and during the War the government undertook many enterprises, the Emergency Fleet Corporation, The United States Grain Corporation, The War Finance Corporation, The United States Sugar Equalization Board, Inland Waterways Corporation, The Federal Intermediate Credit Banks, The Home Owner's Loan Corporation, etc., and the Secretary of Agriculture was authorized to set up a credit organization, the Farm Board. Later, under Executive Order No. 6084, the Federal Farm Credit Administration was given the former duties of the Farm Board. They have charge of the Federal Land Banks, loan to farmers direct, farm lending associations, *i.e.*, Live Stock Loan Association, Agricultural Credit Corporations, Fruit Growers' Loan Association, and the National Farm Loan Association. All these farm lending instrumentalities are under one head, The Federal Farm Credit Administration. The Government furnishes all the money to go into business. The bor-

rowers subscribe for stock, and pay for same by leaving part of the money borrowed in the loan association. These organizations have regional officers who take the paper of many local loans and sell said obligations in the money marts of the nation. One of the functions of the Farm Credit Administration is to enter into partnership with private business and operate in concert or competition with private business.

As President Roosevelt stated, "I am proud that the Administration has reduced interest rates." The banks are now loaning money to farmers at 5% in competition with the government. The banks show a profit at this rate or else they would not do it. Therefore, the government was in business for profit, even though at first they were loaning money at cheaper interest rates than competitive lenders.

The government is guilty of laches when six years after the loan was due it brings suit for \$1,914.57, when by letter and receipt (Filed with the Clerk of the Circuit Court of Appeals) it has previously notified petitioner that he owed \$1,000.00. Petitioner is caused to face a loss due to the loss and misplacing of many documents pertaining to said loan and settlement.

**Point 3.**

Petitioner states that the Mid-South Cotton Grower's Association was not his agent. Even if it were, an agent cannot bind his principal by payment so as to toll limitations, because: Said payment did not constitute an admission by petitioner of the continued existence of the debt, the correctness thereof, and an implied promise to pay the debt.

**Authorities.**

*25 A. L. R. 62;*

*Cox v. Phelps*, 65 Ark. 1;

*Smith v. Farmers' & Merchants Bank*, 184 Ark. 235;

*Taylor v. White*, 182 Ark. 433.

**Argument.**

Fully stated in the petition, and not necessary.

**Point 4.**

Petitioner did not admit in his answer, except possibly by implication, his execution of the note and mortgage (R. 10). Therefore, respondent should be required to prove its allegations in a trial thereof.

It is, therefore, respectfully submitted that this case is one calling for the exercise by this Court of its super-

visory powers in order that the errors herein pointed out may be corrected; that the decision of the Circuit Court of Appeals should be conformed to the decisions of this Court; that a departure from the accepted and usual course of judicial procedure should be rectified; and to such end a *writ of certiorari* should be granted and this Court should review the decision of the Circuit Court of Appeals for the Eighth Circuit, and finally reverse it, or reverse and remand with or without instructions.

Respectfully submitted,

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